THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.18021 of 2004

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the proceedings of the first respondent in Rc.No.136/2003 dated 18.8.2004 as arbitrary and illegal.

It appears, first petitioner society was registered initially under A.P. Cooperative Societies Act, 1964 and during the subsistence of the said society, the same was got registered under Mutually Aided Cooperative Societies Act, 1995 (for short 'MACS Act, 1995) on 30.10.2002 purported to be as per the resolution passed by the old Society on 2.10.2002. Thereafter, by proceedings of the first respondent dated 18.8.2004, a person incharge was appointed for a period of three months or till the elections are conducted, whichever is earlier. Aggrieved by the same, the present writ petition is filed stating that the society, which was registered under 1964 Act is no more in existence in view of resolution passed by the general body on 2.10.2002, which was submitted to the District Cooperative Officer on 25.10.2002, therefore, the question of issuing impugned proceedings appointing person incharge does not arise.

It appears, there is some controversy as to the existence of society registered under 1964 Act. This Court, while impleading the District Cooperative Officer, Mahabubnagar by order dated 17.3.2005 directed him to enquire into the matter as regards the membership of the old society and the society registered under the MACS Act, 1995, after giving reasonable opportunity to the petitioner as well as to the unofficial respondents and submit a report within four weeks. Pursuant to the said direction, the District Cooperative Officer/Joint Registrar submitted his report stating that on verification of registration file of society registered

under MACS Act, 1995, it revealed that 15 persons belonging to Thummanpet village have applied to the District Cooperative Officer for registration of a new society in the village duly completing all the formalities. The District Cooperative Officer has conducted the meeting of the promoters on 25.10.2002 in which except (2) persons, (13) have attended and signed the declaration and based on which the District Cooperative Officer has registered the society on 31.10.2002 vide Registration No.AMC/MNR/DCO/02/241. It seems, he also verified the list of members of the old society as well as the new society. According to his verification, 15 members who signed the registration proposals for new society, 12 were already members of old society. One V.Ramchander Rao was the Chief Promoter (second petitioner) and respondents 2 and 4 were the members of old society as well as new society, and whereas the third respondent is not the member of new society. Apart from this, the District Cooperative Officer also went into merits and de-merits of membership since there was overlapping of membership, which according to him, is not permissible under law. However, he has categorically stated that Thummanpet MPCS Reg.No.1569/97 consists of (57) members and the society registered under MACS Act, 1995 consists of (15) members, out of which (12) members are the members of both the societies.

The report of the District Cooperative Officer/Joint Registrar only indicates as to number of members in each society. On the basis of the said report, this Court cannot go into the merits and demerits of the report or its validity or as to whether the constitution of society under MACS Act 1995 is bad in law or the old society is existing or not.

Be that as it may, since the impugned order dated 18.8.2004 appointing person incharge was only for a period of three months or till the elections are over, whichever is earlier, which was suspended by this Court by order dated 8.10.2004, this writ petition has become

infructuous.

In view of the same, the writ petition is dismissed as having become infructuous. However, the parties are at liberty to workout their remedies as available under law. No order as to costs.

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C.V.RAMULU, J

Date: 3.1.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.18021 of 2004

3.1.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.18021 of 2004

Date: 3rd January, 2006

Between:

M/s Vijaya Milk Producers Mutually
Aided Coop. Society, rep. by its President
V.Ramchander Rao & another.

.. Petitioners

And

The Special Grade Deputy
Registrar (Dairy) of Coop. Societies/
A.P. Dairy Development Coop. Federation Ltd.,
Lalapet, Hyderabad & others.

.. Respondents

and the same is contrary to the very action of the President who marked presence for the secretary A.Linga Reddy.

Except this, the surcharge authority has not recorded any statement of any of the persons concerned including the enquiry officer who submitted report under Section 51 of the Act, nor any documents were marked or any other witnesses were examined.